

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

MARTHA ANDREWS and
LEONARD ANDREWS,

CIVIL ACTION

Plaintiffs,

No.: 2:21-cv-611

v.

D2 LOGISTICS, INC. and
DWAINE GIBSON,

Defendants.

NOTICE OF REMOVAL

AND NOW, come Defendants, D2 Logistics, Inc. and Dwaine Gibson, by and through the undersigned counsel, and hereby remove the above-captioned lawsuit pursuant to 28 U.S.C. § 1441, et seq., from the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division Case No. G.D.-21-0003175, to the United States District Court for the Western District of Pennsylvania, and in support thereof, aver as follows:

1. Plaintiffs, Martha Andrews and Leonard Andrews, filed their Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania at Civil Case No. G.D.-21-003175. (Copies of the Docket and all pleadings and process filed in the State Court action are attached hereto as **Exhibit A**).

2. The Complaint names D2 Logistics, Inc. and Dwaine Gibson as Defendants, and purports to assert claims sounding in negligence relative to an automobile accident that occurred on or about September 30, 2019 in Dauphin County, Pennsylvania.

3. Per the Complaint, Defendant Dwaine Gibson is a resident of Newark, NJ.

4. Per the Complaint, Defendant D2 Logistics, Inc. is a corporation with a principal place of business in Elizabeth, NJ.

5. Per the Complaint, Plaintiff Martha Andrews alleges that she suffered numerous injuries as a result of the accident, including but not limited to the following:

- a. Right distal ulnar fracture;
- b. Non-displaced manubrial fracture;
- c. Retrosternal hematoma;
- d. Right lower abdominal wall contusion;
- e. Right ankle fracture;
- f. Left knee pain;
- g. Bruising of the left breast and abdomen;
- h. Hematoma of left forehead;
- i. Concussion;
- j. Extensor tenosynovitis of the right wrist;
- k. High grade full thickness tear of the triangular fibro cartilage complex;
- l. Early traumatic arthritis of the carpometacarpal joint of the right thumb;
- m. Radial tunnel syndrome;
- n. Lateral epicondylitis of the right elbow; and
- o. Surgical scarring.

(Complaint Paragraph 16).

6. Plaintiff Martha Andrews also claims that as a result of her injuries, she has suffered the following damages:

- a. Plaintiff has incurred in the past, and may incur in the future, substantial medical expenses;

- b. Plaintiff has suffered in the past, and may suffer in the future, substantial pain, suffering, embarrassment, and inconvenience;
- c. Plaintiff has sustained in the past, and may sustain in the future, wage loss and loss of earning capacity;
- d. Plaintiff has sustained in the past, and may sustain in the future, loss of certain pleasures of life;
- e. Plaintiff has sustained disfigurement; and
- f. Plaintiff has sustained loss of consortium.

7. Per the Complaint, Plaintiff Martha Andrews seek an award of compensatory damages and punitive damages.

8. Per the Complaint, Plaintiff Leonard Scott Andrews alleges that he suffered numerous injuries as a result of the accident, including but not limited to the following:

- a. Fracture at the base of the third metacarpal;
- b. Upper chest pain;
- c. Facial abrasions;
- d. Hamstring pain; and
- e. Tinnitus.

9. Plaintiff Leonard Scott Andrews also claims that as a result of his injuries, he has suffered the following damages:

- a. Plaintiff has incurred in the past, and may incur in the future, substantial medical expenses;
- b. Plaintiff has suffered in the past, and may suffer in the future, substantial pain, suffering, embarrassment, and inconvenience;

- c. Plaintiff has sustained in the past, and may sustain in the future, wage loss and loss of earning capacity;
- d. Plaintiff has sustained in the past, and may sustain in the future, loss of certain pleasures of life; and
- e. Plaintiff has sustained loss of consortium.

10. Per the Complaint, Plaintiff Leonard Scott Andrews seek an award of compensatory damages and punitive damages.

11. The above-captioned action, pending in the Court of Common Pleas of Allegheny County, Pennsylvania is within the jurisdiction of the United States District Court for the Western District of Pennsylvania.

12. The United States District Court for the Western District of Pennsylvania has original jurisdiction over this action pursuant to 28 U.S.C. § 1332, inasmuch as the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

13. This action is removable from the Court of Common Pleas of Allegheny County, Pennsylvania pursuant to the provisions of 28 U.S.C. § 1441, et seq.

14. Concurrent with the filing of this Notice of Removal, Defendants have filed a Notice of Filing of Notice of Removal with the Department of Court Records of Allegheny County, Pennsylvania, advising that they have removed this action to the United States District Court for the Western District of Pennsylvania.

15. In filing this Notice of Removal, Defendants do not waive any affirmative defenses they may assert in this action.

WHEREFORE, Defendants D2 Logistics, Inc. and Dwaine Gibson respectfully request that this Court enter an Order removing this matter from the Court of Common Pleas of Allegheny County, Pennsylvania to the United States District for the Western District of Pennsylvania.

JURY TRIAL DEMANDED

PION, NERONE, GIRMAN,
WINSLOW & SMITH, P.C.

By /s/ Paul A. Custer
Paul A. Custer, Esquire

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Counsel for Defendants

CERTIFICATE OF SERVICE

I, Paul A. Custer, Esquire, hereby certify that a true and correct copy of the foregoing NOTICE OF REMOVAL was served upon counsel of record via U.S. Mail, First Class, postage paid and/or via electronic mail this 7th day of May, 2021, as follows:

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PION, NERONE, GIRMAN,
WINSLOW & SMITH, P.C.

By /s/ Paul A. Custer
Paul A. Custer, Esquire
Counsel for Defendants